

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SEP 11 2024

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY

MARK ANTHONY ORTEGA

Plaintiff,

v.

LOUIS AMBROSIO and BLOCK EQUITY
GROUP, LLC,

Defendants.

Case No. SA-24-CV-00838-FB-ESC

PLAINTIFF'S MOTION FOR CLERK'S ENTRY OF DEFAULT

Plaintiff, Mark Anthony Ortega ("Plaintiff"), requests that the Clerk of Court enter default against Defendant Block Equity Group, LLC ("Block EG"), pursuant to Federal Rule of Civil Procedure 55(a). In support of this request, Plaintiff states the following:

SUMMARY

1. The Proof of Service (ECF No. 5) demonstrates that Block EG was properly served with a copy of Plaintiff's Original Complaint (ECF No. 1) in this case on August 9, 2024.
2. More than twenty-one (21) days have elapsed since the date of service of process, and Block EG has failed to answer, challenge, or otherwise defend as required by Federal Rule of Civil Procedure 12(a)(1)(A) and as demonstrated by the record in this action and by the Declaration of Mark Anthony Ortega. *See Exhibit A.*

BACKGROUND

3. On July 24, 2024, Plaintiff filed his Original Complaint (ECF No. 1) against Block EG in this suit seeking monetary relief for violations of the Telephone Consumer

Protection Act (“TCPA”), 47 U.S.C. § 227 et seq. 47 C.F.R. § 64.1200(d)(6), and the Texas Business and Commercial Code, Chapter 302.

4. Plaintiff properly served Block EG with the Complaint and Summons on August 9, 2024 (ECF No. 5).

5. Block EG has not appeared in this action.

ARGUMENTS AND AUTHORITIES

6. The Clerk of Court must enter a default against a party who has not filed a responsive pleading or otherwise defended the suit. Fed. R. Civ. P. 55(a); *see N.Y. Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996).

7. The Clerk should enter a default against Block EG because it did not file a responsive pleading within 21 days of service. Fed. R. Civ. P. 12(a)(1)(A)(i); Fed. R. Civ. P. 6(d); *see* Fed. R. Civ. P. 55(a).

8. The Clerk should enter a default against Block EG because it did not otherwise defend the suit. Fed. R. Civ. P. 55(a).

9. Because Block EG did not file a responsive pleading or otherwise defend the suit, it is not entitled to notice of entry of default. *See* Fed. R. Civ. P. 5(a)(2); *New York Life Ins. Co. v. Brown*, 84 F.3d 137, 141-42 (5th Cir. 1996).

10. Plaintiff is therefore, entitled to entry of default against Block EG because it has failed to file an answer to the Original Complaint or any other responsive pleadings. This entry of default is authorized by Rule 55 of the Federal Rules of Civil Procedure.

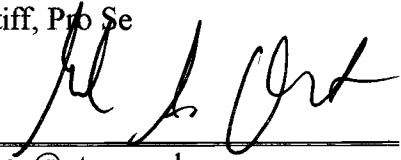
PRAYER

For the foregoing reasons, Plaintiffs respectfully request the Clerk of Court to enter a default against Defendant Block EG in this matter.

Dated: September 8, 2024

Respectfully submitted,

Mark Anthony Ortega
Plaintiff, Pro Se

By: 
mortegea@utexas.edu
PO Box 702099
San Antonio, TX 78270
Telephone: (210) 744-9663

CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2024, I mailed the foregoing via first class mail for traditionally filing with the clerk of court for the U.S. District Court, Western District of Texas, and served a true and correct copy of this document on the parties and/or attorneys of record via email to mvaldini@blockequitygr.comcom and via first class mail to Defendant at the following address:

Block Equity Group, LLC
REPUBLIC REGISTERED AGENT SERVICES INC.
54 STATE STREET, STE 804
ALBANY, NY, 12207


Mark Anthony Ortega

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
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MARK ANTHONY ORTEGA

Plaintiff,

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AFFIDAVIT IN SUPPORT OF CLERK'S ENTRY OF DEFAULT

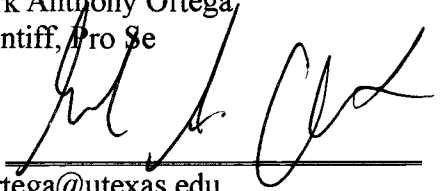
I hereby certify that I, Mark Anthony Ortega, am the Plaintiff in the above cause, and that defendant BLOCK EQUITY GROUP, LLC was served on August 9, 2024 as evidenced by the Proof of Service. (ECF No. 5)

I further certify that the defendant has failed to serve an answer or other responsive pleading; the defendant is neither an infant (under age 21) nor an incompetent person; the defendant is not in the active military service of the United States of America or its officers or agents or was not six months prior to the filing of the case. Therefore, the Clerk is requested to enter a default against said defendant.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: September 8, 2024

Mark Anthony Ortega
Plaintiff, Pro Se

By: 

mortega@utexas.edu
PO Box 702099
San Antonio, TX 78270
Telephone: (210) 744-9663

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CLERK'S ENTRY OF DEFAULT

The Plaintiff, Mark Anthony Ortega, having filed a Complaint (ECF No. 1) on July 24, 2024, and the Defendant, BLOCK EQUITY GROUP, LLC, having failed to plead or otherwise defend as required by the Federal Rules of Civil Procedure, and the time for responding having expired;

IT IS ORDERED, that the Clerk enter the default of the Defendant, BLOCK EQUITY GROUP, LLC.

By: _____
Clerk of Court